

## REMARKS

### **Background**

The present application is a continuation application that claims priority under 35 U.S.C. §120 to the benefit of the filing date of Hippensteel U.S. patent application serial no. 10/091,475 (“the prior application”), which was filed on March 5, 2002, which, in turn, claims priority under 35 U.S.C. §119 to the benefit of the filing date of Hippensteel U.S. patent application serial no. 60/350,242, which was filed on November 10, 2001. All three applications are entitled “ANTIGRAVITY FULL RANGE OF MOTION FOUR LIMB DRY SWIM EXERCISE MACHINE.”

In the final Office Action issued during prosecution of the prior application (and in the non-final Office Action issued just prior to the final Action), the Examiner cited several references against patentability of the then-pending claims. These references included U.S. Patent No. 2,332,184 (“the Sweeney patent”), U.S. Patent No. 1,966,448 (“the Kabisius patent”), U.S. Patent No. 3,731,921 (“the Andrews patent”), U.S. Patent No. 5,393,280 (“the Haviv patent”), and U.S. Patent No. 4,840,428 (“the Kobayashi patent”). Applicant submits that Claims 1-19 as provided in the present application patentably distinguish over each of the cited references, regardless of whether they are considered alone or in combination.

### **Claims 1-19 are patentable over the previously cited references**

Independent Claim 1, covering an exercise machine, recites the element of “a pair of independently adjustable arm exercise mechanisms mounted on a first end of said frame, each of said arm mechanisms including a rotatable arm to be rotated around an axis of rotation by the user’s arms, each said rotatable arm including a shaft portion that is *separate and distinct* from the shaft portion of said other rotatable arm, each said shaft portion defining said axis of rotation of said rotatable arm.” Since none of the prior references, including Sweeney, Kabisius, Andrews, Haviv and Kobayashi, teach or suggest an exercise machine having a pair of independently adjustable arm mechanisms, each arm mechanism having a rotatable arm that includes a shaft portion *separate and distinct* from the shaft portion of the other rotatable arm,

independent Claim 1 is patentable over Sweeney, Kabisius, Andrews, Haviv and Kobayashi, and any combination thereof. Thus, allowance of independent Claim 1 is respectfully requested.

Claims 2-9 depend directly from Claim 1, and, therefore, include all of the limitations of that claim as well as additional limitations that further define the invention over the cited references. Accordingly, at least for the reasons set forth with respect to Claim 1, allowance of Claims 2-9 is respectfully requested.

Independent Claim 10, also covering an exercise machine, recites the element of “a pair of adjustable arm exercise mechanisms mounted on a first end of said frame, each of said arm mechanisms including a rotatable arm to be rotated around an axis of rotation by the user’s arms, each said arm mechanism being *vertically adjustable from said frame such that said axis of rotation is capable of being moved in a vertical direction from said frame* to adjust the circle of rotation of said arm mechanism.” Since none of the prior references, including Sweeney, Kabisius, Andrews, Haviv and Kobayashi, teach or suggest an exercise machine having a pair of adjustable arm mechanisms, each being *vertically adjustable from said frame such that said axis of rotation is capable of being moved in a vertical direction from said frame*, independent Claim 10 is patentable over Sweeney, Kabisius, Andrews, Haviv and Kobayashi, and any combination thereof. The “adjustable-leg-exercise-mechanism” element of claim 10 includes a similar feature that also is not disclosed in any of the previous references. Thus, allowance of independent Claim 10 is respectfully requested.

Claims 11-14 depend directly from Claim 10, and, therefore, include all of the limitations of that claim as well as additional limitations that further define the invention over the cited references. Accordingly, at least for the reasons set forth with respect to Claim 10, allowance of Claims 11-14 is respectfully requested.

Independent Claim 15, also covering an exercise machine, recites the element of “a headrest mounted to said bench at said first end of said frame by at least one spring mechanism, said spring mechanism *running in a direction along the length of said bench and positioned between said first end of said bench and said headrest* to allow a range of motion for the user’s head and neck.” Since none of the prior references, including Sweeney, Kabisius, Andrews, Haviv and Kobayashi, teach or suggest an exercise machine having a headrest mounted to a bench by at least one spring mechanism running in a direction along the length of said bench and

positioned between said first end of said bench and said headrest to allow a range of motion for the user's head and neck, independent Claim 15 is patentable over Sweeney, Kabisius, Andrews, Haviv and Kobayashi, and any combination thereof. Thus, allowance of independent Claim 15 is respectfully requested.

Claim 16 depends directly from Claim 15, and, therefore, includes all of the limitations of that claim as well as additional limitations that further define the invention over the cited references. Accordingly, at least for the reasons set forth with respect to Claim 15, allowance of Claim 16 is respectfully requested.

Independent Claim 17 is a claim directed to an exercise machine, comprising: "a bench having a length and width mounted on a frame for a user to lie on their back, said bench and frame being formed in two sections adjustable longitudinally; and a shock absorbing crosspiece mounted to the frame between said two sections and defining a fulcrum to allow said sections to be tilted relative to one another, and a shock absorber-like device mounted to the frame to provide spring support for the crosspiece at its fulcrum, the tilting of the sections by pivoting of the crosspiece as the shock absorber device moves allowing the user to bend abdominally." Since none of the prior references, including Sweeney, Kabisius, Andrews, Haviv and Kobayashi, teach or suggest an exercise machine including a bench formed in two sections, and a shock absorbing crosspiece mounted to the frame between said two sections in a manner as claimed above, independent Claim 17 is patentable over Sweeney, Kabisius, Andrews, Haviv and Kobayashi, and any combination thereof. Thus, allowance of independent Claim 17 is respectfully requested.

Claims 18-19 depend directly from Claim 17, and, therefore, include all of the limitations of that claim as well as additional limitations that further define the invention over the cited references. Accordingly, at least for the reasons set forth with respect to Claim 17, allowance of Claims 18-19 is respectfully requested.

### **Conclusion**

In view of the remarks presented above, it is respectfully submitted that Claims 1-19 of the present application are in condition for allowance. It is therefore respectfully requested that a Notice of Allowance be issued in due course. If the Examiner has any questions regarding the

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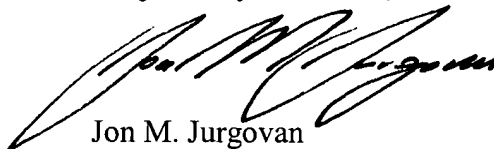
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subject application, the Examiner is requested to contact the undersigned at the telephone number provided below.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



Jon M. Jurgovan

Registration No. 34,633

**Customer No. 00826**

**ALSTON & BIRD LLP**

Bank of America Plaza

101 South Tryon Street, Suite 4000

Charlotte, NC 28280-4000

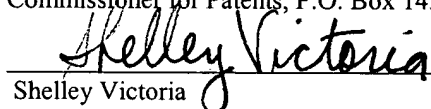
Tel Atlanta Office (404) 881-7000

Fax Atlanta Office (404) 881-7777

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